

II. REMARKS

A. Introduction

In this Office Action claims 5-7 and 10-14 are noted as pending and are rejected.

In summary of this Response, independent claims 5, 6, 10 and 11 are amended herein, and remarks are provided.

B. Rejection of Claims 5-7 and 10-14 Under 35 U.S.C. Section 112, First Paragraph

Claims 5-7 and 10-14 have been under 35 U.S.C. § 112, first paragraph. However, the Examiner notes on pages 5 and 8, and confirmed in a telephone conference with the undersigned on April 27, 2009 that amending the independent claims to recite in the next to the last line "wherein the nucleotide sequence encodes a protein having 90% sequence identity to SEQ ID NO: 2 and" would overcome the rejection. The Examiner's suggestion is appreciated.

Applicant herein has amended these independent claims in line with the Examiner's suggestion except that "... at least 90%..." has been recited. It is believed support for this recitation can be found, e.g., on page 7, lines 2 and 16, page 14, line 27, page 15, lines 10-11.

III. CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that claims 5-7 and 10-14 are now in condition for allowance.

If there are any additional fees associated with this Response, please charge same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the undersigned would appreciate a telephone conference with the Examiner to attend to these matters.

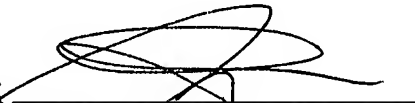
Respectfully submitted,

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6/4/09

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